

2009 SENATE BILL 66

February 18, 2009 – Introduced by Senators SULLIVAN, PLALE, LEHMAN, DECKER, HANSEN, VINEHOUT, HARSDORF, RISSER, CARPENTER, A. LASEE, DARLING, ERPENBACH and COWLES, cosponsored by Representatives ZEPNICK, LOTHIAN, A. OTT, BIES and HONADEL. Referred to Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing.

1 **AN ACT** *to repeal* 346.65 (8); *to renumber* 343.301 (1) (c); *to amend* 165.755 (1)
2 (b), 302.46 (1) (a), 343.23 (2) (b), 343.30 (1q) (c) 1. (intro.), 343.301 (1) (a) 1.,
3 343.301 (1) (a) 2., 346.65 (2) (am) 3., 346.65 (2) (am) 4., 346.65 (2) (bm), 346.65
4 (2) (cm), 346.65 (2j) (bm), 346.65 (2j) (cm), 346.65 (2m) (a), 346.65 (3r), 346.655
5 (1), 757.05 (1) (a), 814.63 (1) (c), 814.63 (2), 814.65 (1), 814.85 (1) (a) and 814.86
6 (1); and *to create* 343.301 (1) (a) 3., 343.301 (1) (c) 2., 343.301 (1) (cm), 346.65
7 (2) (am) 3m., 758.13 (2) (h) and 758.13 (2) (i) of the statutes; **relating to:**
8 operation of a motor vehicle while under the influence of an intoxicant and
9 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill makes numerous changes to the laws related to the operation of a motor vehicle while under the influence of an intoxicant (OWI), including the following:

1. Current law gives a court discretion to require the installation of an ignition interlock device on a person's motor vehicle if the person committed an OWI offense and has one or more prior convictions, suspensions, or revocations for OWI. Under current law, if the person has two convictions, suspensions, or revocations for OWI

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within any five-year period, the court is required to order the installation of an ignition interlock device on a person's motor vehicle. This bill requires the court to order the installation of a ignition interlock device on a person's motor vehicle if the person has a third conviction, suspension, or revocation for OWI within any period; or if the person has a second conviction, suspension, or revocation for OWI within any period and had an alcohol concentration of 0.16 or greater at the time of the current offense.

2. The bill requires the court, if it orders the installation of an ignition interlock device, to determine the income of the violator, and if the violator's income is less than the income limit for the Wisconsin Works program to reduce the amount of the fine imposed by the amount necessary to pay for the installation and maintenance of the ignition interlock device.

3. The bill prohibits the company that equips a motor vehicle with an ignition interlock device from removing the device or terminating the contract for the maintenance of the device during the period that the court ordered without first receiving the court's permission.

4. The bill increases the penalties for OWI as follows:

a. The penalty for a third OWI offense is currently a fine of \$600 to \$2,000 and imprisonment of 30 days to one year in jail. Under the bill if the person has a third OWI-related conviction, suspension, or revocation within a five-year period, the current offense is a Class I felony and creates a minimum fine of \$600 and a minimum imprisonment of 60 days.

b. The penalty for a fourth OWI offense is currently a fine of \$600 to \$2,000 and imprisonment of 60 days to one year in jail. The bill makes the fourth OWI offense a Class I felony and creates a minimum fine of \$600 and a minimum imprisonment of 60 days.

5. 2005 Wisconsin Act 389 created a pilot program for sentencing persons in Winnebago County who are convicted of certain second or third offenses involving OWI. Under that act, the period of imprisonment for an OWI offense in Winnebago County may be reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may complete a treatment program and receive a reduced period of imprisonment only once. This bill expands the sentencing option to any county that opts to allow a violator to successfully complete a period of probation that includes alcohol and other drug treatment in exchange for a shorter period of imprisonment.

6. Currently, a person who commits his or her first OWI offense and who has a prohibited alcohol concentration between 0.08 and 0.99 at the time of the offense is not liable for penalty surcharges or court fees and does not need to comply with an alcohol or other drug assessment program. Further, the Department of Transportation (DOT) must purge its records of a first OWI offense after ten years; DOT keeps all other records of OWI offenses permanently.

Under this bill, a person who commits his or her first OWI offense and who has a prohibited alcohol concentration between 0.08 and 0.99 at the time of the violation is liable for the surcharges or fees and must comply with an alcohol or other drug

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assessment program before his or her driving privileges may be reinstated. Under this bill, DOT must keep a record of this offense permanently.

The bill requires the Judicial Council to establish advisory sentencing guidelines for OWI offenses and make those guidelines and any revisions available to judges and attorneys at least annually.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 165.755 (1) (b) of the statutes is amended to read:

2 165.755 (1) (b) A court may not impose the crime laboratories and drug law
3 enforcement surcharge under par. (a) for a violation of s. 101.123 (2) (a), (am) 1., (ar),
4 (bm), (br), or (bv) or (5) (b), ~~for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1.,~~
5 ~~346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood~~
6 ~~alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation,~~
7 or for a violation of a state law or municipal or county ordinance involving a
8 nonmoving traffic violation, a violation under s. 343.51 (1m) (b), or a safety belt use
9 violation under s. 347.48 (2m).

10 **SECTION 2.** 302.46 (1) (a) of the statutes is amended to read:

11 302.46 (1) (a) If a court imposes a fine or forfeiture for a violation of state law
12 or for a violation of a municipal or county ordinance except for a violation of s. 101.123
13 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s. 23.33 (4c) (a)~~
14 ~~2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~
15 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
16 ~~time of the violation,~~ or for a violation of state laws or municipal or county ordinances

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1 involving nonmoving traffic violations, violations under s. 343.51 (1m) (b), or safety
2 belt use violations under s. 347.48 (2m), the court, in addition, shall impose a jail
3 surcharge under ch. 814 in an amount of 1 percent of the fine or forfeiture imposed
4 or \$10, whichever is greater. If multiple offenses are involved, the court shall
5 determine the jail surcharge on the basis of each fine or forfeiture. If a fine or
6 forfeiture is suspended in whole or in part, the court shall reduce the jail surcharge
7 in proportion to the suspension.

8 **SECTION 3.** 343.23 (2) (b) of the statutes is amended to read:

9 343.23 (2) (b) The information specified in pars. (a) and (am) must be filed by
10 the department so that the complete operator's record is available for the use of the
11 secretary in determining whether operating privileges of such person shall be
12 suspended, revoked, canceled, or withheld, or the person disqualified, in the interest
13 of public safety. The record of suspensions, revocations, and convictions that would
14 be counted under s. 343.307 (2) shall be maintained permanently, ~~except that the~~
15 ~~department shall purge the record of a first violation of s. 23.33 (4c) (a) 2., 30.681 (1)~~
16 ~~(b) 1., 346.63 (1) (b), or 350.101 (1) (b) after 10 years, if the person who committed the~~
17 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
18 ~~time of the violation, if the person does not have a commercial driver license, if the~~
19 ~~violation was not committed by a person operating a commercial motor vehicle, and~~
20 ~~if the person has no other suspension, revocation, or conviction that would be counted~~
21 ~~under s. 343.307 during that 10-year period.~~ The record of convictions for
22 disqualifying offenses under s. 343.315 (2) (h) shall be maintained for at least 10
23 years. The record of convictions for disqualifying offenses under s. 343.315 (2) (f) and
24 (j), and all records specified in par. (am), shall be maintained for at least 3 years. The
25 record of convictions for disqualifying offenses under s. 343.315 (2) (a) to (e) shall be

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1 maintained permanently, except that 5 years after a licensee transfers residency to
2 another state such record may be transferred to another state of licensure of the
3 licensee if that state accepts responsibility for maintaining a permanent record of
4 convictions for disqualifying offenses. Such reports and records may be cumulative
5 beyond the period for which a license is granted, but the secretary, in exercising the
6 power of suspension granted under s. 343.32 (2) may consider only those reports and
7 records entered during the 4-year period immediately preceding the exercise of such
8 power of suspension.

9 **SECTION 4.** 343.30 (1q) (c) 1. (intro.) of the statutes is amended to read:

10 343.30 **(1q)** (c) 1. (intro.) Except as provided in subd. 1. a. or b., ~~and except for~~
11 ~~a first violation of s. 346.63 (1) (b), if the person who committed the violation had a~~
12 ~~blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the~~
13 ~~violation,~~ the court shall order the person to submit to and comply with an
14 assessment by an approved public treatment facility as defined in s. 51.45 (2) (c) for
15 examination of the person's use of alcohol, controlled substances or controlled
16 substance analogs and development of a driver safety plan for the person. The court
17 shall notify the department of transportation of the assessment order. The court
18 shall notify the person that noncompliance with assessment or the driver safety plan
19 will result in revocation of the person's operating privilege until the person is in
20 compliance. The assessment order shall:

21 **SECTION 5.** 343.301 (1) (a) 1. of the statutes is amended to read:

22 343.301 **(1)** (a) 1. Except as provided in subd. 2. and 3., if a person improperly
23 refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or
24 940.25, and the person has a total of one or more prior convictions, suspensions, or
25 revocations, counting convictions under ss. 940.09 (1) and 940.25 in the person's

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lifetime and other convictions, suspensions, and revocations counted under s. 343.307 (1), the court may order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating "Class D" vehicles that are equipped with an ignition interlock device.

SECTION 6. 343.301 (1) (a) 2. of the statutes is amended to read:

343.301 (1) (a) 2. If Except as provided in subd. 3., if a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of 2 or more convictions, suspensions, or revocations, counted under s. 343.307 (1) within any 5-year period, the court shall order that the person's operating privilege for the operation of "Class D" vehicles be restricted to operating vehicles that are equipped with an ignition interlock device and shall order that each motor vehicle for which the person's name appears on the vehicle's certificate of title or registration be equipped with an ignition interlock device. If equipping each motor vehicle with an ignition interlock device under this subdivision would cause an undue financial hardship, the court may order that one or more motor vehicles subject to this subdivision not be equipped with an ignition interlock device. This subdivision does not apply if the court enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior convictions, suspensions, or revocations for purposes of this subdivision, to the motor vehicle owned by the person and used in the violation or refusal if the court orders the vehicle to be seized and forfeited under s. 346.65 (6).

SECTION 7. 343.301 (1) (a) 3. of the statutes is created to read:

343.301 (1) (a) 3. If a person improperly refuses to take a test under s. 343.305 or violates s. 346.63 (1) or (2), 940.09 (1), or 940.25, and the person has a total of 2 or more prior convictions, suspensions, or revocations, counted under s. 343.307 (1),

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1 or the person has a prior conviction, suspension, or revocation counted under s.
2 343.307 (1) and has an alcohol concentration of 0.16 or more at the time of the current
3 offense, the court shall order that the person's operating privilege for the operation
4 of "Class D" vehicles be restricted to operating vehicles that are equipped with an
5 ignition interlock device and shall order that each motor vehicle for which the
6 person's name appears on the vehicle's certificate of title or registration be equipped
7 with an ignition interlock device. If equipping each motor vehicle with an ignition
8 interlock device under this subdivision would cause an undue financial hardship, the
9 court may order that one or more motor vehicles subject to this subdivision not be
10 equipped with an ignition interlock device. This subdivision does not apply if the
11 court enters an order under sub. (2) (a) 2. or, if the person has 2 or more prior
12 convictions, suspensions, or revocations for purposes of this subdivision, to the motor
13 vehicle owned by the person and used in the violation or refusal if the court orders
14 the vehicle to be seized and forfeited under s. 346.65 (6).

15 **SECTION 8.** 343.301 (1) (c) of the statutes is renumbered 343.301 (1) (c) 1.

16 **SECTION 9.** 343.301 (1) (c) 2. of the statutes is created to read:

17 343.301 (1) (c) 2. If the court enters an order under par. (a), the court shall
18 determine the amount of the person's income, and, if the person's income is less than
19 the income limitations in s. 49.145 (3) (b), the court shall reduce any fine imposed
20 upon the person as a result of his or her conviction under s. 346.63 (1) or (2), 940.09
21 (1), or 940.25 by the amount necessary to pay for the installation and maintenance
22 of the ignition interlock device.

23 **SECTION 10.** 343.301 (1) (cm) of the statutes is created to read:

24 343.301 (1) (cm) The company that equips the ignition interlock device on a
25 motor vehicle may not remove the device or terminate the contract for the

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1 maintenance of the device during the period that the court ordered under par. (b)
2 without the court's permission.

3 **SECTION 11.** 346.65 (2) (am) 3. of the statutes is amended to read:

4 346.65 **(2)** (am) 3. Except as provided in subd. 3m. and pars. (cm), (f), and (g),
5 shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less
6 than 30 days nor more than one year in the county jail if the number of convictions
7 under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
8 suspensions, revocations, and other convictions counted under s. 343.307 (1), equals
9 3, except that suspensions, revocations, or convictions arising out of the same
10 incident or occurrence shall be counted as one.

11 **SECTION 12.** 346.65 (2) (am) 3m. of the statutes is created to read:

12 346.65 **(2)** (am) 3m. Except as provided in pars. (cm), (f), and (g), is guilty of a
13 Class I felony and shall be fined not less than \$600 and imprisoned for not less than
14 60 days if the number of suspensions, revocations, and other convictions counted
15 under s. 343.307 (1) within a 5-year period, equals 3, except that suspensions,
16 revocations, or convictions arising out of the same incident or occurrence shall be
17 counted as one.

18 **SECTION 13.** 346.65 (2) (am) 4. of the statutes is amended to read:

19 346.65 **(2)** (am) 4. Except as provided in pars. (f) and (g), is guilty of a Class I
20 felony and shall be fined not less than \$600 ~~nor more than \$2,000~~ and imprisoned
21 for not less than 60 days ~~nor more than one year in the county jail~~ if the number of
22 convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total
23 number of suspensions, revocations and other convictions counted under s. 343.307
24 (1), equals 4, except that suspensions, revocations or convictions arising out of the
25 same incident or occurrence shall be counted as one.

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SECTION 14. 346.65 (2) (bm) of the statutes is amended to read:

346.65 (2) (bm) In ~~Winnebago County~~ any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am) 2., but the period of imprisonment shall be not less than 5 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 5 nor more than 7 days. A person may be sentenced under this paragraph or under par. (cm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

SECTION 15. 346.65 (2) (cm) of the statutes is amended to read:

346.65 (2) (cm) In ~~Winnebago County~~ any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307 (1) within a 10-year period, equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am) 3., but the period of imprisonment shall be not less than 30 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be

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1 not less than 10 days. A person may be sentenced under this paragraph or under par.
2 (bm) or sub. (2j) (bm) or (cm) or (3r) once in his or her lifetime.

3 **SECTION 16.** 346.65 (2j) (bm) of the statutes is amended to read:

4 346.65 **(2j)** (bm) In Winnebago County any county that opts to offer a reduced
5 minimum period of imprisonment for the successful completion of a probation period
6 that includes alcohol and other drug treatment, if the number of convictions under
7 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
8 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
9 a 10-year period, equals 2, except that suspensions, revocations, or convictions
10 arising out of the same incident or occurrence shall be counted as one, the fine shall
11 be the same as under par. (am) 2., but the period of imprisonment shall be not less
12 than 5 days, except that if the person successfully completes a period of probation
13 that includes alcohol and other drug treatment, the period of imprisonment shall be
14 not less than 5 nor more than 7 days. A person may be sentenced under this
15 paragraph or under par. (cm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

16 **SECTION 17.** 346.65 (2j) (cm) of the statutes is amended to read:

17 346.65 **(2j)** (cm) In Winnebago County any county that opts to offer a reduced
18 minimum period of imprisonment for the successful completion of a probation period
19 that includes alcohol and other drug treatment, if the number of convictions under
20 ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of
21 suspensions, revocations, and other convictions counted under s. 343.307 (1) within
22 a 10-year period, equals 3 or more, except that suspensions, revocations, or
23 convictions arising out of the same incident or occurrence shall be counted as one, the
24 fine shall be the same as under par. (am) 3., but the period of imprisonment shall be
25 not less than 30 days, except that if the person successfully completes a period of

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1 probation that includes alcohol and other drug treatment, the period of
2 imprisonment shall be not less than 10 days. A person may be sentenced under this
3 paragraph or under par. (bm) or sub. (2) (bm) or (cm) or (3r) once in his or her lifetime.

4 **SECTION 18.** 346.65 (2m) (a) of the statutes is amended to read:

5 346.65 **(2m)** (a) In imposing a sentence under sub. (2) for a violation of s. 346.63
6 (1) (am) or (b) or (5) or a local ordinance in conformity therewith, the court shall
7 review the record and consider the aggravating and mitigating factors in the matter
8 and the sentencing guidelines adopted under s. 758.13 (2) (h). If the amount of
9 alcohol in the person's blood or urine or the amount of a restricted controlled
10 substance in the person's blood is known, the court shall consider that amount as a
11 factor in sentencing. ~~The chief judge of each judicial administrative district shall~~
12 ~~adopt guidelines, under the chief judge's authority to adopt local rules under SCR~~
13 ~~70.34, for the consideration of aggravating and mitigating factors.~~

14 **SECTION 19.** 346.65 (3r) of the statutes is amended to read:

15 346.65 **(3r)** In Winnebago County any county that opts to offer a reduced
16 minimum period of imprisonment for the successful completion of a probation period
17 that includes alcohol and other drug treatment, any person violating s. 346.63 (2) or
18 (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall
19 be not less than 30 days, except that if the person successfully completes a period of
20 probation that includes alcohol and other drug treatment, the period of
21 imprisonment shall be not less than 15 days. If there was a minor passenger under
22 16 years of age in the motor vehicle at the time of the violation that gave rise to the
23 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum
24 and maximum fines or periods of imprisonment for the conviction are doubled and
25 the place of imprisonment shall be determined under s. 973.02. A person may be

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1 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once
2 in his or her lifetime.

3 **SECTION 20.** 346.65 (8) of the statutes is repealed.

4 **SECTION 21.** 346.655 (1) of the statutes is amended to read:

5 346.655 (1) If a court imposes a fine or a forfeiture for a violation of s. 346.63
6 (1) or (5), ~~except for a first violation of s. 346.63 (1) (b), if the person who committed~~
7 ~~the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at~~
8 ~~the time of the violation,~~ or a local ordinance in conformity therewith, or s. 346.63
9 (2) or (6) or 940.25, or s. 940.09 where the offense involved the use of a vehicle, it shall
10 impose a driver improvement surcharge under ch. 814 in an amount of \$365 in
11 addition to the fine or forfeiture, plus costs, fees, and other surcharges imposed under
12 ch. 814.

13 **SECTION 22.** 757.05 (1) (a) of the statutes is amended to read:

14 757.05 (1) (a) Whenever a court imposes a fine or forfeiture for a violation of
15 state law or for a violation of a municipal or county ordinance except for a violation
16 of s. 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~or for a first violation of s.~~
17 ~~23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~
18 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~
19 ~~than 0.1 at the time of the violation,~~ or for a violation of state laws or municipal or
20 county ordinances involving nonmoving traffic violations, violations under s. 343.51
21 (1m) (b), or safety belt use violations under s. 347.48 (2m), there shall be imposed in
22 addition a penalty surcharge under ch. 814 in an amount of 26 percent of the fine or
23 forfeiture imposed. If multiple offenses are involved, the penalty surcharge shall be
24 based upon the total fine or forfeiture for all offenses. When a fine or forfeiture is

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1 suspended in whole or in part, the penalty surcharge shall be reduced in proportion
2 to the suspension.

3 **SECTION 23.** 758.13 (2) (h) of the statutes is created to read:

4 758.13 **(2)** (h) Adopt advisory sentencing guidelines for violations of s. 346.63
5 (1) or (2), 940.09 (1), or 940.25 to promote public safety, to reflect changes in
6 sentencing practices, and to preserve the integrity of the judicial, criminal justice,
7 and correctional systems.

8 **SECTION 24.** 758.13 (2) (i) of the statutes is created to read:

9 758.13 **(2)** (i) Provide information to judges and attorneys about the sentencing
10 guidelines adopted under par. (h), which shall include annual reports that include
11 the most current sentencing guidelines and all changes in existing sentencing
12 guidelines adopted during the 12 months preceding the report.

13 **SECTION 25.** 814.63 (1) (c) of the statutes is amended to read:

14 814.63 **(1)** (c) This subsection does not apply to an action for a violation of s.
15 101.123 (2) (a), (am) 1., (ar), (bm), (br), or (bv) or (5), ~~for a first violation of s. 23.33~~
16 ~~(4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who~~
17 ~~committed the violation had a blood alcohol concentration of 0.08 or more but less~~
18 ~~than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b), or a~~
19 safety belt use violation under s. 347.48 (2m).

20 **SECTION 26.** 814.63 (2) of the statutes is amended to read:

21 814.63 **(2)** Upon the disposition of a forfeiture action in circuit court for
22 violation of a county, town, city, village, town sanitary district or public inland lake
23 protection and rehabilitation district ordinance, except for an action ~~for a first~~
24 ~~violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the~~
25 ~~person who committed the violation had a blood alcohol concentration of 0.08 or more~~

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1 but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m)
2 (b) or a safety belt use violation under s. 347.48 (2m), the county, town, city, village,
3 town sanitary district or public inland lake protection and rehabilitation district
4 shall pay a nonrefundable fee of \$5 to the clerk of circuit court.

5 **SECTION 27.** 814.65 (1) of the statutes is amended to read:

6 814.65 (1) COURT COSTS. In a municipal court action, except for an action for
7 a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1)
8 (b), if the person who committed the violation had a blood alcohol concentration of
9 0.08 or more but less than 0.1 at the time of the violation, or for a violation of an
10 ordinance in conformity with s. 343.51 (1m) (b) or 347.48 (2m), the municipal judge
11 shall collect a fee of not less than \$15 nor more than \$28 on each separate matter,
12 whether it is on default of appearance, a plea of guilty or no contest, on issuance of
13 a warrant or summons, or the action is tried as a contested matter. Of each fee
14 received by the judge under this subsection, the municipal treasurer shall pay
15 monthly \$5 to the secretary of administration for deposit in the general fund and
16 shall retain the balance for the use of the municipality.

17 **SECTION 28.** 814.85 (1) (a) of the statutes is amended to read:

18 814.85 (1) (a) Except for an action for ~~a first violation of s. 23.33 (4c) (a) 2.,~~
19 ~~30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the~~
20 ~~violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the~~
21 ~~time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use~~
22 ~~violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$68~~
23 ~~court support services surcharge from any person, including any governmental unit~~
24 ~~as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am) or~~
25 814.63 (1).

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SECTION 29. 814.86 (1) of the statutes is amended to read:

814.86 (1) Except for an action for ~~a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$12 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).~~

SECTION 30. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection but does not preclude the counting of other convictions, suspensions, or revocations as prior convictions, suspensions, or revocations for purposes of administrative action by the department of transportation or sentencing by a court.

SECTION 31. Effective date.

(1) This act takes effect on July 15, 2009, or on the effective date of this subsection, whichever is later.

(END)